

REMARKS

I. STATUS OF THE CLAIMS

Applicants received the Final Office Action dated September 22, 2005 and the Decision on Appeal dated July 20, 2007. In the Decision on Appeal, the Board of Patent Appeals and Interferences (BPAI) affirmed the rejections set forth in the Final Office Action. In the Final Office Action, prior Examiner Charles: 1) rejected claims 3-4, 6-7, 11, 13, 26 and 29 under 35 U.S.C. §103(a), believing them to be obvious in view of Wagner (U.S. Pat. No. 5,424,938) and Hawkins (U.S. Pat. No. 6,029,146); 2) rejected claims 8, 12 and 30 under 35 U.S.C. §103(a), believing them to be obvious in view of Wagner, Hawkins and Harada (U.S. Pub. No. 2003/0208440); and 3) rejected claims 21-22 and 24-25 under 35 U.S.C. §103(a), believing them to be obvious in view of Hawkins and Harada. The prior Examiner also rejected claims 31, 34 and 38-41 under 35 U.S.C. §102(b), believing them to be anticipated by Sibley (U.S. Pat. No. 4,677,552); however, the BPAI approved entry of Applicants' amendment filed March 28, 2006, in which Applicants cancelled claims 31 and 34-43.

With this Preliminary Amendment, Applicants amend claims 3, 6 and 26. Based on the amendments and remarks herein, Applicants respectfully submit that this case is in condition for allowance.

II. REJECTION UNDER WAGNER AND HAWKINS

Claims 3-4, 6-7, 11, 13, 26 and 29 under 35 U.S.C. §103(a) were rejected as obvious in view of Wagner and Hawkins. As amended, independent claim 3 requires "wherein, before said equity is sold, the system ensures that an account used to purchase said equity contains sufficient funds to purchase said equity." As the prior Examiner admitted on p. 7 of the Final Office Action, the combination of Wagner and Hawkins fails

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to teach such a limitation¹. For at least this reason, claim 3 is patentable over the combination of Wagner and Hawkins.

Applicants note that on p. 8 of the Final Office Action, the prior Examiner asserted that Harada discloses such a limitation. For this reason, Applicants are concerned that the Examiner may, in a future Office Action, attempt to use Harada to reject claim 3. Applicants respectfully submit that Harada cannot be used to reject claim 3 under 35 U.S.C. §103(a) at least because Harada implicitly teaches away from claim 3. MPEP §2141.02(VI).

Specifically, claim 3 requires that an “executing affiliate electronically transmits proceeds from said sale of said equity to said introducing affiliate via the global hub.” Harada teaches the opposite. More specifically, Harada is directed to an international payment system. Abstract. A customer in country A may use the system to purchase an item from a seller located in country B. *Id.* To facilitate the transaction, Harada’s system enables the customer to pay the seller in country B using foreign currency (*i.e.*, local to country B) funds that are already located in country B. Figs. 3A, 3B and associated text; paragraph [0059]. Thus, in contrast to the clear requirements of claim 3 that “proceeds from said sale of said equity” be electronically transmitted to “said introducing affiliate via the global hub,” in Harada, proceeds from sales are not transmitted to the seller via a global hub because the seller and the account containing the funds both are located in the same country. *Id.* Thus, Harada does not disclose or suggest the claimed limitations and actually teaches away from claim 3 because it discourages the transfer of proceeds to the customer in country A. It would be nonsensical for proceeds from a sale to be transferred via a global hub to the **customer**. Proceeds from a sale are given to the

¹ The prior Examiner rejected claims 8, 12 and 30 by relying on the combination of Wagner and Hawkins; however, the prior Examiner’s subsequent discussion focused on Sibley and Hawkins. Applicants assume, as the BPAI apparently did, that this was a typographical error on the part of the prior Examiner and that the prior Examiner intended to refer to “Wagner” in place of “Sibley.” Regardless, neither Wagner nor Sibley, when combined with Hawkins, discloses the cited limitation.

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seller who, as mentioned above, is in the same country as the account from which the proceeds are paid.

Although Harada does disclose the option of transferring funds to a global trading hub, this type of transfer is merely for currency exchange. Figs. 3A and 3B, items 424, 422, 432 and 436; paragraphs [0043] and [0047]. Instead of transferring proceeds from the global hub to the introducing affiliate as required by claim 3, Harada teaches that funds may be transferred from the global trading hub 422 to the beneficiary 436, who is located in the same country as the account(s) containing the funds. Paragraph [0059]. Thus, at least because Harada teaches away from claim 3, independent claim 3 and dependent claim 4 are patentable over the hypothetical combination of Wagner, Hawkins and Harada.

Independent claim 6 requires “prior to transmitting said funds to said executing affiliate, a check is made of said account to ensure said account holds an amount of said funds that is at least as great as a minimum amount needed to purchase said equity.” As explained above, the combination of Wagner and Hawkins fails to teach or suggest such a limitation. However, the Examiner may attempt to combine Wagner, Hawkins and Harada in a future Office Action to reject claim 6. In response, Applicants would point out that claim 6 also requires “said introducing affiliate electronically transmits funds for said purchase of said equity to said executing affiliate via the global hub.” Applicants respectfully remind the Examiner that, because Harada teaches away from this limitation, Harada cannot be used in such a rejection. Independent claim 6 and dependent claims 7 and 11-13 are patentable for at least these reasons.

Independent claim 26 requires “vetting a customer account in said first computerized system to determine that said customer account holds funds sufficient to purchase said security or commodity.” As explained above, the combination of Wagner and Hawkins fails to teach or suggest such a limitation. However, the Examiner may attempt to combine Wagner, Hawkins and Harada in a future Office Action to reject claim 26. In response, Applicants would point out that claim 26 also requires “transferring

said funds from said customer account to the second computerized system via a global hub.” Applicants respectfully remind the Examiner that, because Harada teaches away from this limitation, Harada cannot be used in such a rejection. Independent claim 26 and dependent claim 29 are patentable for at least these reasons.

III. REJECTION UNDER WAGNER, HAWKINS AND HARADA

The Examiner rejected claims 8, 12 and 30 under 35 U.S.C. §103(a) as allegedly obvious in view of Wagner, Hawkins and Harada. Claims 8 and 30 have been canceled. Claim 12 depends on independent claim 6, which is patentable over the hypothetical combination of Wagner, Hawkins and Harada, as explained above in section II. Therefore, claim 12 is patentable over the combination of Wagner, Hawkins and Harada.

IV. REJECTION UNDER HAWKINS AND HARADA

The Examiner rejected claims 21-22 and 24-25 under 35 U.S.C. §103(a) as allegedly obvious in view of Hawkins and Harada. Claim 21 requires “electronically transmitting proceeds from said sale of said stock from said first financial exchange to said customer account via the global hub.” As explained above under section II, Harada implicitly teaches away from this limitation. Thus, Harada cannot be used to reject claim 21. For at least this reason, independent claim 21 and dependent claims 22 and 24-25 are patentable over the combination of Hawkins and Harada.

V. V. CONCLUSION

Applicants respectfully request reconsideration, a withdrawal of all rejections and objections, and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required

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(including fees for net addition of claims) are hereby authorized to be charged to Conley
Rose, P.C. Deposit Acct. No. 03-2769/1991-00301/HGLM.

Respectfully submitted,

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